IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/09/2003

CORAM

THE HON'BLE MR.JUSTICE P.K.MISRA

W.P.NO.15286 OF 2003
AND
WP.MP.NO.19176 ODF 2003

Mrs.S.Akila ...Petitioner

-Vs-

1.Registrar, Annamalai University
Annamalai Nagar 608 002.

2. Dean Tirunelveli Medical College,
Tirunelvei 627 001.

3. Registrar, the Tamil Nadu Dr.M.G.R. Medical
University,
69, Anna Salai, Guindy, Chennai-32.

4.Medical Council of India,
Kotla Road, Opposite Meta Sundario College(for Women)
New Delhi 110 002.
...Respondents
Petition filed under Article 226 of the Constitution of India
praying to issue a writ of Certiorarified mandamus as stated within.

For Petitioner: Mr.S.Nadana Sabapathy

For respondent No.1: No appearance.

For respondent No.2: Mrs.Thenmozhi Sivaperumal
Additional Govt.Pleader

For Respondent No.3: Mr.Bellaisamy

For Respondent No.4: Mr.S.Jagadeesan

:O R D E R

Heard the learned counsel appearing for the parties.

2. The petitioner in this writ petition has prayed for the
issue of a writ of Certiorarified mandamus calling for the records connected

with the orders of the Registrar, The Tamil Nadu Dr. M.G.R.Medical University, Chennai in his Official Memorandum Rc.No.ACI(3)/16130/2003 dated 9.5.2003 and further direct the respondents to permit the petitioner to do her compulsory Rotatory Resident Internship (hereinafter referred to as CRRI) in Tirunelveli Medical College which is affiliated to Tamil Nadu Dr.MGR University, third respondent University.

3.The petitioner was a student of Annamalai University and she has completed her MBBS Course under the said University. At the stage of doing her CRRI, petitioner got married and since was in the family way, an application was filed seeking permission to undergo her CRRI under Tirunelveli Medical College, which is affiliated to third respondent University . Incidentally, it may be pointed out that the parents-in-law of the petitioner are from Tirunelveli area and since she was in the family way, it would have been convenient for her to stay at Tirunelveli to undergo her CRRI in Tirunelveli Medical College. The authorities of Annanmalai University did not have any objection. Similarly, the Dean of Tirunelveli Medical College also did not have any objection for doing her one year CRRI in Tirunelveli Medical College. But the objection came from the unexpected quarters viz. The Tamil Nadu Dr.M.G.R. Medical University,the third respondent herein.

4.The application was rejected as per the impugned letter dated 9.5 .2003, the relevant portion of which is extracted below:

"With reference to your letter cited, I am by direction, to inform that as per the directions issued by the Medical Council of India, New Delhi in its letter No.9(2)/2002-Med/29934 dated 28.12.2002 internship is a part and parcel of MBBS curriculum and the one year Internship is to be undergone at the parent Medical College Hospital in consonance with applicable regulations.

2. In view of the above, I am to state that your request for the issue of No Objection Certificate to do CRRI at Tirunelveli Medical College. Tirunelveli under the affiliated institution of this University is not feasible of compliance."

5.Learned counsel appearing for the fourth respondent, the Medical Council of India has sought for further time to file a counter, when the matter was taken up hearing today. It is a date fixed matter and had been heard on earlier occasions. Since the action of the third respondent is being impugned and counter has been filed on behalf of the third respondent and keeping in view the urgency of the matter, I am not inclined to grant further adjournment to the fourth respondent.

6.Learned counsel for the petitioner has submitted that the third respondent has rejected the application seeking permission to undergo CRRI in Tirunelveli Medical College by relying upon correspondence made by the Medical Council of India. On going through such correspondence, I do not find any absolute bar and in exceptional cases, such benefit may be permitted. The relevant portion of the circular issued by the Medical Council of India on 28.12.2002 is of the following effect:

I am directed to inform you that as per Regulations of the Council on Graduate Medical Education, 1997, 'every candidate is required after passing the final MBBS examination to undergo compulsory rotational internship to the satisfaction of the College authorities and University concerned for a period of 12 months so as to be eligible for the award of the degree of Bachelor of Medicine and Bachelor of Surgery (MBBS) and full registration"

Lately the Council has started receiving applications from the candidates requesting to issue them "No Objection Certificate" for undergoing their internship training from hospitals; in India recognised by the Council for this purpose other than their parent medial colleges/hospitals.

It is stated that Internship is a part and parcel of MBBS curriculum and as the one year internship training is to be undergone to the satisfaction of the college authorities and Universities concerned who should oversee that it is done satisfactorily as per Regulations,. It is therefore suggested that all efforts should be made by controlling authorities that internship as far as possible is done in parent medical college/Hospital in consonance with applicable regulations."

7.In the impugned letter, a reference has been made to the Circular dated 28.12.2002. The relevant portion which has already been extracted envisages that in exceptional cases, the undergoing of CRRI in any other Institution can be permitted.

8.It is not disputed by the second respondent that in some other cases, such permission has been given. In the present case, it was the specific case of the applicant that after her marriage, she was staying with her husband and her parents-in-law in Tirunelveli and she was in family way and therefore it would be much more convenient for her to stay with her husband and parents-in-law to complete the training. The reason for seeking transfer appears to be quite germane. The order of rejection is simply on the ground that it is not permitted by the Medical Council as per the circular dated 28.12.2002. As already seen, such training can be permitted to be completed in different institution in exceptional circumstances. A lady student who is pregnant and who intends to stay with her husband and parents-in- law can very well be treated as one such exceptional circumstance.

9.Learned counsel appearing for the third respondent has brought to my notice the subsequent circular issued by the University in July,2 003. Apart from the fact that such circular was issued in July 2003, whereas the impugned order was issued in May,2003, even under such letter circulated by the third respondent, transfer is permitted on the ground of illness. The condition of the lady who is pregnant, is akin to that of a person who is indisposed inasmuch as such lady obviously requires constant attention and special treatment. Therefore, even applying the standard laid down in the subsequent circular issued in July 2003, it cannot be said that the petitioner did not deserve permission to undergo the training in a different institution.

10.It is brought to my notice that in the meanwhile the petitioner has given birth to a child who is hardly 2 = months old and that would be a relevant ground for consideration. While undergoing the training, it would be necessary for the mother(petitioner) to leave the infant child with her husband or parents-in-law , so that they can look after the infant child.

11.Having regard to all these factors, I am inclined to quash the impugned order passed by the third respondent University. It is directed that necessary steps may now be taken by respondents 3 & 4 granting permission to the petitioner to undergo her training in Tirunelveli Medical College. The petition is accordingly allowed to the extent indicated above. This may be done as expeditiously as possible, preferably within a period of six weeks from the date of communication of this order. No costs. Consequently,WP.MP.NO.19176 of 2003 is closed.

Index:Yes
Internet:Yes

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To
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